

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YAJAIRA BEZARES,

Plaintiff,

-against-

BUYK CORPORATION,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/27/2022

22-cv-7034 (MKV)

ORDER OF SERVICE

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff brings this *pro se* action under Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§ 2000e to 2000e-17 and 42 U.S.C. § 1981, alleging that Defendant discriminated against her based on her race and sex. The Court construes Plaintiff’s allegations as asserting related state-law claims as well. *See McLeod v. Jewish Guild for the Blind*, 864 F.3d 154, 158 (2d Cir. 2017) (holding that where a *pro se* plaintiff’s factual allegations supported claims under “well-known” provisions of state law, district courts must construe the complaint as asserting claims under those laws, “regardless of [plaintiff’s] failure to check the appropriate blank on a form complaint”). By order dated October 25, 2022, the Court granted Plaintiff’s request to proceed *in forma pauperis* (“IFP”).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d 119, 123 n.6

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

(2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendant Buyk Corporation through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue a summons for Defendant Buyk Corporation, complete the USM-285 form with the addresses for this defendant, and deliver to the U.S. Marshals Service all documents necessary to effect service.²

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge*

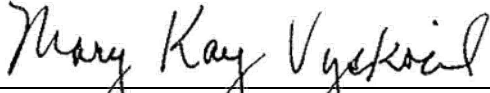
² Plaintiff lists Defendant’s address as: 99 Park Avenue, New York, New York 10016, and in Defendant’s bankruptcy papers which Plaintiff attaches to her complaint, (ECF No. 2 at 39), Defendant’s principal place of business is listed as: 245 East 93rd Street, Ste. 22E, New York, New York 10128.

v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: October 27, 2022
New York, New York



MARY KAY VYSKOCIL
United States District Judge

DEFENDANT AND SERVICE ADDRESSES

Buyk Corporation
99 Park Avenue
New York, New York 10016

AND

Buyk Corporation
245 East 93rd Street, Ste. 22E
New York, New York 10128